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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,233	11/30/2001	Lee W. Johnston	53394.000586	2532

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,233

Applicant(s)

JOHNSTON ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the absorbent core folded in a "C" configuration must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 15 and 33 are objected to because of the following informalities: The claims disclose a basis weight given in g/cm^2 . The specification discloses the basis weight in g/cm^2 . Further, claim 33 discloses a method, but depends from claim 1, the article claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, and 30-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the garment" in lines 11 and 12. There is insufficient antecedent basis for this limitation in the claim.

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Claim 3 recites the limitation "the crotch region" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim. Claim 3 depends from claim 1, and the crotch region is disclosed in claim 2.

Claim 30 recites the limitation "the absorbent laminate core" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6, 14-15, 25-30, 32-33, and 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al. (5,350,370).

Jackson discloses an absorbent article comprising a topsheet 52, a backsheet 54, and an absorbent core 56, as shown in figure 2. The absorbent core 56 comprises a mixture of a starch grafted polyacrylate sodium salt, as disclosed in column 4, lines 55-56, and cellulose acetate, as disclosed in column 5, lines 22-23. These materials are disclosed in the instant specification as having a thermal resistance of less than 1.7 watts/m². The thermal resistance is inherent to the material, and therefore the absorbent article of Jackson will have a thermal resistance of less than 1.7 watts/m² if measured in a Thermolabo apparatus.

With respect to claim 2, the topsheet 52 and backsheet 54 form a first waist region, a second waist region, and a crotch region, as shown in figure 2. A fastening

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element, shown in figure 2 but not numbered, joins the first waist region to the second waist region.

With respect to claim 6, at least one fastening element, shown in figure 2 but not numbered, comprises a pair of tabs extending laterally.

With respect to claim 14, the absorbent core 56 has a density of about 0.1 to about 0.5 g/cm², as disclosed in column 2, lines 64-66.

With respect to claim 15, the absorbent core 56 has a basis weight of about 100 to about 1000 g/m², as disclosed in column 2, lines 62-64.

With respect to claims 25-28, the materials comprising the absorbent article are disclosed in the instant specification as having a thermal resistance of less than 1.7 watts/m². The thermal resistance is inherent to the material, and therefore the absorbent article of Jackson will have a thermal resistance of less than 1.7 watts/m² if measured in a Thermolabo apparatus.

With respect to claim 29, the absorbent core 56 has a thickness of about 5 mm to about 20 mm, as determined from the basis weight and density disclosed in column 2, lines 62-66.

With respect to claim 30, Jackson discloses a method of making an absorbent article comprising a topsheet 52 and a backsheet 54. An absorbent core 56 is prepared by dispersing superabsorbent polymer particles within a fibrous matrix, as disclosed in column 4, lines 7-18. The absorbent core 56 is then disposed between the topsheet 52 and backsheet 54, as shown in figure 2.

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With respect to claim 32, the absorbent core 56 has a density of about 0.1 to about 0.5 g/cm², as disclosed in column 2, lines 64-66.

With respect to claim 33, the absorbent core 56 has a basis weight of about 100 to about 1000 g/m², as disclosed in column 2, lines 62-64.

With respect to claims 43-46, the materials comprising the absorbent article are disclosed in the instant specification as having a thermal resistance of less than 1.7 watts/m². The thermal resistance is inherent to the material, and therefore the absorbent article of Jackson will have a thermal resistance of less than 1.7 watts/m² if measured in a Thermolabo apparatus.

With respect to claim 47, the absorbent core 56 has a thickness of about 5 mm to about 20 mm, as determined from the basis weight and density disclosed in column 2, lines 62-66.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3- 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) as applied to claim 1 above, and further in view of Glaug et al. (6,491,677).

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With respect to claim 3, Jackson discloses all aspects of the claimed invention with the exception of one of more elastic materials disposed adjacent to the lateral edge, and standing leg gathers.

Glaug discloses an absorbent article 20, as shown in figure 1, comprising elastic material 50 disposed adjacent the lateral edge, and standing leg gathers 52, which serve to give the article a secure fit around the legs of a wearer and prevent leakage.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Jackson with the elastic material and standing leg gathers of Glaug, in order to give the article a secure fit around the legs of a wearer and prevent leakage.

With respect to claims 4 and 5, Jackson discloses all aspects of the claimed invention but remains silent as to the type of fastening elements used.

Glaug discloses an absorbent article 20, as shown in figure 1, comprising fastening elements 54. The fastening elements 54 comprise either the hook portion 56 of a hook and loop fastener, or an adhesive tape, as disclosed in column 8, lines 14-15 and lines 43-44. The article 20 further comprises a target device 70 comprising either the loop portion or a tape receiving surface, as disclosed in column 8, lines 22-24 and lines 45-46. Glaug discloses the use of hook and loop fasteners and adhesive fasteners as providing secure attachment for the article 20.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Jackson with the fastening means of Glaug to provide the article with a secure attachment.

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Claims 7-13, 16-22, 31, and 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) as applied to claims 1 and 30 above, and further in view of Erspamer et al. (6,420,626).

With respect to claims 7-13 and 31, Jackson discloses all aspects of the claimed invention with the exception of an upper layer and a lower layer disposed around the absorbent core 56.

Erspamer discloses an absorbent article, as described in column 1, lines 5-10, comprising an absorbent core. The absorbent core comprises a mixture of fibrous material and superabsorbent polymer, as disclosed in column 3, lines 10-12. The article further comprises an upper layer and a lower layer, as shown in figure 2, which function to quickly absorb and distribute liquid, as disclosed in column 2, lines 40-47. The upper and lower layers are capable of functioning as fluid acquisition layers, wicking layers, storage layers, fragmented layers, and a combination of wicking and distribution layers.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Jackson with the upper and lower layers of Erspamer to allow liquid to be quickly absorbed and distributed.

With respect to claims 16-17 and 34-35, Jackson discloses the superabsorbent polymer is a starch grafted polyacrylate sodium salt, as described in column 4, lines 55-56.

With respect to claims 18, 20, 36, and 38, Jackson discloses the fibrous material is cellulose acetate, as described in column 5, lines 22-23.

With respect to claims 19 and 37, the absorbent core 56 comprises about 1-5% of a thermally bondable fiber, as described in column 6, lines 26-29.

With respect to claims 21 and 39, the absorbent core 56 comprises about 50% to about 95% by weight superabsorbent polymer, as described in column 5, lines 60-61, and are 100% efficient.

With respect to claims 22 and 40, the absorbent core 56 further comprises particulate additives, as described in column 6, lines 26-29.

Claims 22-24 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) as applied to claims 13 and 31 above, and further in view of Chmielewski (6,068,620).

Jackson discloses all aspects of the claimed invention with the exception of particulate additives comprising potato, corn, wheat, and rice starches having a particle diameter of 100 microns or less.

Chmielewski discloses an absorbent article 10, as shown in figure 1, comprising an absorbent core. The absorbent core comprises a mixture of fibrous material and superabsorbent polymer, as disclosed in column 11, lines 11-13. The absorbent core further comprises potato, corn, wheat, or rice starches having a particle diameter of less than 100 microns, as disclosed in column 12, lines 10-24. These particulate additives maintain the strength and stiffness of the absorbent core, as disclosed in column 12, lines 20-24.

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It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Jackson with the particulate fillers of Chmielewski, in order to maintain the strength and stiffness of the absorbent core.

Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) as applied to claim 30 above, and further in view of Nystrand et al. (3,814,100).

Jackson discloses all aspects of the claimed invention with the exception of the absorbent core being folded in a "C" configuration.

Nystrand discloses an absorbent article, as shown in figure 1, comprising a topsheet 20, a backsheet 21, and an absorbent core 10. The absorbent core 10 is folded into a "C" configuration, as shown in figure 3, then disposed between the topsheet 20 and backsheet 21, as described in column 2, lines 5-13. Folding the absorbent core 10 into a "C" configuration allows for improved dispersion of liquids, as disclosed in column 1, lines 10-12.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Jackson with an absorbent core having a "C" configuration, as taught by Nystrand, to allow for improved dispersion of liquids.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA

cla

January 8, 2003



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